

STATE OF WISCONSIN
Department of Industry, Labor & Human Relations

In the Matter of the PECFA Appeal of

Jack Strasser
Johnny's Petroleum
S 76 WI 7871 Janesville Road
Muskego WI 53150-9299

PECFA Claim #53150-9299-71
Hearing #94-12

Final Decision

PRELIMINARY RECITALS

Pursuant to a petition for hearing filed March 7, 1994, under § 10.02(6)(e), Wis. Stats., and § ILHR 47.53, Wis. Adm. Code, to review a decision by the Department of Industry, Labor and Human Relations, a hearing was held on January 10, 1995, at Madison, Wisconsin.

The issues for determination are:

Whether the department's decision not to reimburse the appellants for the following items claimed was reasonable: \$3,826.38 for costs incurred prior to notification of the discharge on June 2, 1992; \$3,106.45 for costs incurred for underground storage tank removal; \$1,403.24 for per diem costs in excess of \$75.00 per day for photoionization equipment; \$232.88 for soil boring charges; and \$40.25 in mileage charges.

There appeared in this matter the following persons:

PARTIES IN INTEREST:

Jack Strasser
Johnny's Petroleum
S76 W17871 Janesville Road
Muskego WI 53150-9299
By: Neil W. Rismeyer
Cooper Environmental
1411 North Main Street
West Bend WI 53095

Strasser v. DILHR

Department of Industry, Labor and Human Relations 201 East
Washington Avenue
P.O. Box 7946
MADISON WI 53707-7946
By: Kristiane Randal
Assistant General Counsel
P.O. Box 7946
Madison WI 53707-7946

The administrative law judge issued a Proposed Decision dated March 30, 1995, and the parties were provided an opportunity to file objections. The authority to issue a final decision in this matter has been delegated to the undersigned by order of the Secretary dated October 20, 1995.

The matter now being ready for decision, I hereby issue the following

FINAL DECISION

The Proposed Decision dated March 30, 1995, is hereby adopted as the final decision of the department.

NOTICE TO PARTIES

Request for Rehearing

This is a final agency decision under §227.48, Stats. If you believe this decision is based on a mistake in the facts or the law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision and which you could not have discovered sooner through due diligence. To ask for a new hearing, send a written request to Department of Industry, Labor & Human Relations, Office of Legal Counsel P. O. Box 7946, Madison, WI 53707-7946.

Send a copy of your request for a new hearing to all the other parties named in this decision as "PARTIES IN INTEREST."

Your request must explain what mistake the hearing examiner made and why it is important. Or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain how your request for a new hearing is based on either a mistake of fact or

law or the discovery of new evidence which could not have been discovered through due diligence on your part, your request will have to be date.

Your request for a new hearing must be received no law than 20 days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in Sec. 227.49 of the state statutes

Petition For Judicial Review

Petitions for judicial review must be filed no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing if you ask for one). The petition for judicial review must be served on the Department of Industry, Labor and Human Relations, Office of Legal Counsel, 201 E. Washington Avenue, Room 400x, P. O- Box 7946, Madison, WI 53707-7946.

The petition for judicial review must also be served on the other "PARTIES IN INTEREST" named in this decision- The process for judicial review is described in Sec. 227.53 of the statutes.

Dated and mailed:

Richard C. Wegner, Deputy Secretary
Department of Industry, Labor & Human
Relations
P O Box 7946
Madison WI 53707-7946

cc: Parties in Interest and counsel